



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,063	02/25/2004	Tomohisa Higuchi	249256US6X	8923
22850 7590 03/18/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER WALTER, CRAIG E	
			ART UNIT	PAPER NUMBER
			2188	
			NOTIFICATION DATE	DELIVERY MODE
			03/18/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/785,063	<b>Applicant(s)</b> HIGUCHI, TOMOHISA	
	<b>Examiner</b> CRAIG E. WALTER	<b>Art Unit</b> 2188	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,10,12-15,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10,12-15,17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. Claims 1-7, 9, 10, 12-15, 17 and 18 are pending in the Application.

Claims 1, 5, 9, 10, 12, 17 and 18 have been amended.

Claims 8, 11, 16, and 19 are cancelled.

Claims 1-7, 9, 10, 12-15, 17 and 18 are rejected.

### ***Response to Amendment***

2. Applicant's amendments and arguments filed on 14 February 2008 in response to the office action mailed on 28 November 2007 have been fully considered, but they are not persuasive. Therefore, the rejections made in the previous office action are maintained, and restated below, with changes as needed to address the amendments.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7, 9, 10, 12-15, 17 and 18 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for claims 1, 9, 10, 12, 17 and 18, the phrase "determining means for determining whether a result of detection by said detecting means indicates internal access by said communicating means of the information processing apparatus via said

data lines or external access from an external apparatus via said antenna according to a change of electromagnetic field strength detected by said antenna” renders the claim indefinite. More specifically, this phrase introduces ambiguity into the claim because it is unclear whether it is the detecting mean itself that detects by way of change in EM field strength, or if the way in which the external access occurs is via change in EM field strength. There does not appear to be support in Applicant’s original specification for the former, and the latter interpretation is an inherent and necessary function of an antenna. As such, Examiner presumes the former interpretation for the purposes of applying prior art.

As for claim 10, the phrases, “[a]n information processing apparatus having **embedded** therein a non-contact type IC” and “said non-contact type IC including a memory, a memory control unit, and an antenna that are **independent of the information processing apparatus**” (emphasis added) in combination, render the claim indefinite. More specifically, it is unclear and ambiguous how the constituent elements of the IC card (which is *embedded* within the information processing apparatus) can be *independent* of the information processing apparatus. In other words, if they are independent, how can they also be embedded, and vice-versa? These terms seem to indicate two mutually exclusive configurations. Referring to Applicant’s Fig. 2, it would appear that the apparatus (element 1) and the IC card (element 2) are “independent” because said apparatus comprises a superset of elements as compared with said IC card. Examiner will therefore interpret elements of the IC card as being “independent” of the apparatus to mean part of the apparatus, but

not exclusively the only critical elements of the apparatus. This interpretation is consistent with Fig. 2 of Application original specification.

A similar rejection applies to claims 17 and 18.

All remaining dependant claims are rejected for at least inheriting the deficiencies of each of their respective base claims.

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, 9, 10, 12, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi (US Patent 5,378,887).

As for claims 1, 9 and 10 Kobayashi teaches an information processing apparatus (Fig. 2 – all elements (e.g. elements 10, 12, 14, 22, etc.)), (method and medium) having embedded therein a non-contact type integrated circuit (IC) (Fig. 2, element 16 (also depicted in Fig. 5 as elements 32, 34, 36, 38, and 40)), the information processing apparatus comprising:

communicating means for communicating data with said non-contact type IC via data lines, the non-contact type IC including a memory (Fig. 5, element 321/322), a memory control unit (Fig. 5, element 34), and an antenna (Fig. 5, element 40) (referring to Fig. 5, the data path (e.g. data lines) connecting elements 32 to 34 and 34 to 36 (not labeled) comprise the data lines, whereas the read area deciding section communicates data via the data lines, hence it comprises the communication means; the memory may

be accessed (i.e. read) by the memory control section via the read area deciding section – col. 7, line 62 through col. 8, line 11. Since Kobayashi's information processing apparatus and IC card are not the same unit, the elements contained within the IC card are "independent" of the information apparatus. This interpretation is consistent with Applicant's Fig. 2 (apparatus illustrated as element 1, and the non-contact IC is depicted as element 2));

detecting means for detecting any access to said non-contact type IC, said detecting means being external to said non-contact type IC (Fig. 5, element 36 – the memory control section controls access to and from the memory, therefore it is capable of detecting when the memory is being accessed – col. 7, line 63 through col. 8, line 11). Note for the mapping above, the non-contact IC includes a memory (Fig. 5, element 321/322), a memory control unit (Fig. 5, element 34), and an antenna (Fig. 5, element 40) that are independent of the information processing apparatus (referring to Fig. 5, the data path (e.g. data lines) connecting elements 32 to 34 and 34 to 36 (not labeled) comprise the data lines, whereas the read area deciding section communicates data via the data lines. Examiner maintains therefore that the detecting means (e.g. element 36) is actually part of the information processing apparatus and not internal to the non-contact type IC (e.g. external). This interpretation is consistent with Applicant's specification (Fig. 1, depicts the detecting means (e.g. terminal apparatus) as including a non-contact IC, where the terminal apparatus is external to the non-contact card). Kobayashi teaches a larger information processing apparatus, all elements of Fig. 2, except for the non-contact IC card elements which include elements

32, 34, 38 and 40 (and the communication links) as shown in Fig. 5. As such, Kobayashi's detecting means is part of the information processing apparatus, but external to the non-contact IC card.

determining means for determining whether a result of detection by said detecting means indicates internal access by said communicating means of the information processing apparatus via data lines or external access from an external apparatus via said antenna according to a change of electromagnetic field strength detected by said antenna (access can occur from a write operation via the external device (referring to Fig. 5, the external device communicates with the IC card via the non contact terminal (40), to the modulating and demodulating section (38), to the memory control section (36) – col. 7, line 63 through col. 8, line 17). Additionally, the access could be simply result from reading the memory via the read area deciding section - col. 7, line 63 through col. 8, line 11). Note the memory control section is capable of making a determination of where the access is coming from – more specifically, the read area deciding section is used to decide which area of the memory 32 should be accessed. In order for the system to function properly, the read area deciding section must compare the numbers recorded in each respective area in of the memory (either 321 or 322), and make a determination based on this information which area should be selected. This information is then sent to the memory control section - col. 8, lines 63 through col. 9, line 7. Kobayashi clearly sets forth the read area deciding section as accessing the memory sections to make this determination (to compare the numbers read from each respective section), therefore he does teach an "internal

access" (i.e. accessing includes both writing to, and *reading from*, a memory).

Kobayashi's memory control section clearly can determine if the memory access occurs from the external apparatus (the thrust of the invention is directed to preventing and allowing re-access from the external source), and clearly it can determine the occurrence of an internal access (i.e. the data coming from the read area deciding section is a result of internal access once it receives the critical information on the memory areas); and

Also note, external access occurs only via the antenna in Kobayashi, which by definition, functions by modulating EM field strength. See also col. 7, l. 62 through col. 8, l. 62 of Kobayashi. Examiner further notes that nowhere in the original specification, is the claimed antenna described to function by modulating EM field strength. This suggests either that this field strength modulation is an inherent function of an antenna, or that Applicant has created a new matter situation under § 112, first paragraph. As an artisan of ordinary skill in the art, Examiner contents no new matter exists because this function is inherent to such a device.

access controlling means for controlling the external access from said external apparatus via said antenna when said determining means determines that the result of detection by said detecting means indicates the external access from said external apparatus (col. 2, line 64 through col. 3, line 11 – the system will generate an inhibition signal to control access to the memory via the external device for a predetermined time. The control means can decide weather or not to permit access from the external device to the main circuit based on frequencies of access, by using the information provided by



Art Unit: 2188

the inhibition signal) - the memory control section can clearly control access to the memory from the external apparatus via the re-access circuitry, Kobayashi clearly teaches controlling the external access when it is determined that the access has occurred from the external apparatus (i.e. access cannot be controlled unless the external apparatus is first determined be accessing the memory). Additionally note, Kobayashi's system does not allow for the data read out of the memory areas to be written back to the memory (rather it is used as metadata to help control the data from the external apparatus), hence Kobayashi is controlling access from the external apparatus via the aid of the data which was accessed internally),

wherein the memory, memory control unit, and antenna of the non-contact type IC are separate and distinct elements from the communicating means, the detecting means, the determining means, and the access controlling means of the information processing apparatus (Examiner mapped the memory, memory control unit, and antenna to elements 32, 34 and 40 respectively of Kobayashi's Fig. 5; and the communicating means, the detecting means, the determining means, and the access controlling means of the information processing apparatus to the data lines shown in Fig. 5, and the memory control section (element 36). As such the communicating means, the detecting means, the determining means, and the access controlling means are separate and distinct from the memory, memory control unit, and antenna of the non-contact type IC of Kobayashi).

As for claims 12, 17 and 18, Kobayashi teaches the information processing apparatus (method, medium, and program) having embedded therein a separate information recording medium, comprising:

communicating means for communicating data with said non-contact type IC, send detecting means being external to said non-contact type IC using data lines, the non-contact type IC including a memory (Fig. 5, element 321/322), a memory control unit (Fig. 5, element 36), and an antenna (Fig. 5, element 40) (referring to Fig. 5, the data path (e.g. data lines) connecting elements 32 to 34 and 34 to 36 (not labeled) comprise the data lines, whereas the read area deciding section communicates data via the data lines, hence it comprises the communication means; the memory may be accessed (i.e. read) by the memory control section via the read area deciding section – col. 7, line 62 through col. 8, line 11. Since Kobayashi's information processing apparatus and IC card are not the same unit, the elements contained within the IC card are "independent" of the information apparatus. This interpretation is consistent with Applicant's Fig. 2 (apparatus illustrated as element 1 and the non-contact IC is depicted as element 2))

detecting means for detecting any access to said non-contact type IC, said detecting means being external to said non-contact type IC (Fig. 5, element 36 – the memory control section controls access to and from the memory, therefore it is capable of detecting when the memory is being accessed – col. 7, line 63 through col. 8, line 11); Note for the mapping above, the non-contact IC includes

a memory (Fig. 5, element 321/322), a memory control unit (Fig. 5, element 34), and an antenna (Fig. 5, element 40) that are independent of the information processing apparatus (referring to Fig. 5, the data path (e.g. data lines) connecting elements 32 to 34 and 34 to 36 (not labeled) comprise the data lines, whereas the read area deciding section communicates data via the data lines. Examiner maintains therefore that the detecting means (e.g. element 36) is actually part of the information processing apparatus and not internal to the non-contact type IC (e.g. external). This interpretation is consistent with Applicant's specification (Fig. 1, depicts the detecting means (e.g. terminal apparatus) as including a non-contact IC, where the terminal apparatus is external to the non-contact card). Kobayashi teaches a larger information processing apparatus, all elements of Fig. 2, except for the non-contact IC card elements which include elements 32, 34, 38 and 40 (and the communication links) as shown in Fig. 5. As such, Kobayashi's detecting means is part of the information processing apparatus, but external to the non-contact IC card.

determining means for determining whether a result of detection by said detecting means indicates internal access by said communicating means of the information processing apparatus via said data lines or external access from an external apparatus via said antenna according to a change of electromagnetic field strength detected by said antenna (access can occur from a write operation via the external device (referring to Fig. 5, the external device communicates with the IC card via the non contact terminal (40), to the modulating and demodulating

section (38), to the memory control section (36) – col. 7, line 63 through col. 8, line 17). Additionally, the access could be simply result from reading the memory via the read area deciding section - col. 7, line 63 through col. 8, line 11). Note the memory control section is capable of making a determination of where the access is coming from – more specifically, the read area deciding section is used to decide which area of the memory 32 should be accessed. In order for the system to function properly, the read area deciding section must compare the numbers recorded in each respective area in of the memory (either 321 or 322), and make a determination based on this information which area should be selected. This information is then sent to the memory control section - col. 8, lines 63 through col. 9, line 7. Kobayashi clearly sets forth the read area deciding section as accessing the memory sections to make this determination (to compare the numbers read from each respective section), therefore he does teach an "internal access" (i.e. accessing includes both writing to, and *reading from*, a memory). Kobayashi's memory control section clearly can determine if the memory access occurs from the external apparatus (the thrust of the invention is directed to preventing and allowing re-access from the external source), and clearly it can determine the occurrence of an internal access (i.e. the data coming from the read area deciding section is a result of internal access once it receives the critical information on the memory areas); and

Also note, external access occurs only via the antenna in Kobayashi, which by definition, functions by modulating EM field strength. See also col. 7, l. 62 through col.

8, l. 62 of Kobayashi. Examiner further notes that nowhere in the original specification, is the claimed antenna described to function by modulating EM field strength. This suggests either that this field strength modulation is an inherent function of an antenna, or that Applicant has created a new matter situation under § 112, first paragraph. As an artisan of ordinary skill in the art, Examiner contents no new matter exists because this function is inherent to such a device.

informing means for, when said determining means determines that the result of detection by said detecting means indicates the external access from said external apparatus via said antenna, notifying a user of the external access (once the circuit completes operation based on the access from the external device, an operation inhibition signal is generated to notify the system that a recent access has occurred, and the no additional access is to occur until the predetermined time elapses – col. 2, line 64 through col. 3, line 11),

wherein the memory, memory control unit, and antenna of the non-contact type IC are separate and distinct elements from the communicating means, the detecting means, the determining means, and the access controlling means of the information processing apparatus (Examiner mapped the memory, memory control unit, and antenna to elements 32, 34 and 40 respectively of Kobayashi's Fig. 5; and the communicating means, the detecting means, the determining means, and the access controlling means of the information processing apparatus to the data lines shown in Fig. 5, and the memory control section (element 36). As such the communicating means, the detecting means, the

determining means, and the access controlling means and separate and distinct from the memory, memory control unit, and antenna of the non-contact type IC of Kobayashi).

As for claim 5, Kobayashi teaches informing means for, when said determining means determines that the result of detection by said detecting means indicates the external access via said antenna from said external apparatus, notifying the user of the external access (once the circuit completes operation based on the access from the external device, an operation inhibition signal is generated to notify the system that a recent access has occurred, and the no additional access is to occur until the predetermined time elapses – col. 2, line 64 through col. 3, line 11).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi (US Patent 5, 378,887), and in further view of Masaki et al. (US PG Publication 2002/0188852 A1), hereinafter Masaki.

As for claims 2 and 15, though Kobayashi teaches detecting access to his non-contact type IC, he fails to teach recording the internal or external access information as history information on a recording medium.

Masaki however teaches an illegal access monitoring device for an IC card, which is used to monitor access to the IC card (paragraph 0037, all lines). Note Masaki specifically refers to storing access information in the IC card (paragraph 0112, all lines).

As for claim 3, Kobayashi's system is designed such that the access controlling means refers to the inhibition signal, rather than stored access history information in order to control external access from the external device. Again Masaki teaches monitoring access to the card, and storing access information in said card, which may be referred to a later time to determine if access should be granted or denied based on the stored access information (see the rejection of claim 2 above).

It would have been obvious to one of ordinary skill in the art at the time of the invention for Kobayashi to further include Masaki's illegal access monitoring device for an IC card to his own non-contact IC card. By doing so, Kobayashi would benefit by increasing the security and integrity of data stored within the card by preventing unauthorized access to the memory, and further mitigating the threat of reverse engineering as taught by Masaki in paragraph 0036, all lines.

6. Claims 6, 7, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi (US Patent 5, 378,887) and in further view of Hinker et al. (US Patent 6,351,845 B1), hereinafter Hinker.

As for claims 6, 7, 13 and 14, though the Kobayashi discloses notifying external access to the memory, he fails to teach notifying the user of the system via a warning

display, sound, light, or vibration. He further fails to teach changing the informing method based on access source as claimed by Applicant.

Hinker however teaches an apparatus for analyzing memory use in which the system visually notifies a user when particular types of memory access are occurring within the system (see abstract). More specifically, Hinker teaches the use of different colors to designate the specific type of memory access (i.e. red for a read operation, and green for a write operation) – col. 8, lines 33-35.

It would have been obvious to one of ordinary skill in the art at the time of the invention for Kobayashi to further include Hinker's apparatus for analyzing memory use to his own non-contact IC card. By doing so, he would benefit by having a means of visually informing the user of his card as to how frequently the memory is being accessed, and which access type is taking place. This in turn will help the user understand data dependencies within the memory as taught by Hinker in col. 3, ll. 4-9. This information, can in turn help a user to understand how the memory is being accessed, in order to help reduce the number of accesses, hence improving the memory's efficiency as taught by Hinker in col. 1, line 20-32.

Note that since Kobayashi's system uses the read area deciding section (Fig. 5, element 34) to read data from the memory, and utilizes a path from elements 40, 38, 36 (Fig. 5) to access the memory (32) from the external device, a read and write operation would come from a different source, just as claimed by Applicant.



***Allowable Subject Matter***

7. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The claim distinguishes over the prior art of record for the reasons made of record 13 September 2007.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-7, 9, 10, 12-15, 17, and 18 have been considered but they are not persuasive.

With respect to the previously asserted § 112 rejections, Examiner maintains that claims 10, 17 and 18 still recite limitations that were the cause of the previous § 112 rejections. As such these claims remain rejected under § 112 as per under the heading "Claim Rejections - 35 USC § 112", *supra*.

With respect to claim 1, Applicant asserts (p. 4, ll. 3-10), "the '887 patent fails disclose determining means for determining whether a result of detection by the detecting means indicates internal access by the communicating means of the information processing apparatus via the data lines or external access from an external apparatus via the antenna according to a change of electromagnetic field strength detected by the antenna, as recited in amended Claim 1. The '887 patent does not disclose that the change of electromagnetic field strength detected by the antenna is used to determine whether a result of the detection by the detecting means indicates internal access or external access".

This argument however is not persuasive. External access occurs only via the antenna in Kobayashi, which by definition, functions by modulating EM field strength. See also col. 7, l. 62 through col. 8, l. 62 of Kobayashi. Examiner further notes that nowhere in the original specification, is the claimed antenna described to function by modulating EM field strength. This suggests either that this field strength modulation is an inherent function of an antenna, or that Applicant has created a new matter situation under § 112, first paragraph. As an artisan of ordinary skill in the art, Examiner contents no new matter exists because this function is inherent to such a device. Based on Examiner's best understanding in view of the original specification, it is not the determining means that determines access based on a change in field strength (of which there is not support for in the original specification), but the external access itself that occurs via a change in EM field strength (which Examiner believes implicit support exists in the specification).

Applicant again argues (Remarks – p. 4, ll. 15-24) whether or not reading the memory via the read area deciding section is detecting access to the non-contact IC. This argument is not persuasive, as Examiner and Applicant have, on several previous occasions made of record since the incept of prosecution, argued the merits of whether or not reading memory via the read area deciding section is actually detecting internal access. Examiner maintains, Applicant's arguments notwithstanding, that this type of access does in fact properly anticipate Applicant's claims as per the reasons already made of record.

Since Applicant and the Office appear to have unsuccessfully exhausted their efforts to persuade one another on this matter, not additional retort is deemed necessary and this time. Examiner again respectfully directs Applicant's attention to Examiner's arguments on this matter previously established on the record.

Applicant additionally argues whether or not the component detecting access is in fact internal to the IC card or not (Remarks – p.4, l. 15 through p. 5, l. 11), and whether the elements (e.g. memory, memory control unit, and antenna, are separate and distinct from the elements defined evoking § 112, 6<sup>th</sup> (e.g. “means for”) – Remarks – p.5, l. 12 through p. 6, l. 6).

These arguments however are not persuasive for several reasons. First, the non-contact IC includes a memory (Fig. 5, element 321/322), a memory control unit (Fig. 5, element 34), and an antenna (Fig. 5, element 40) that are independent of the information processing apparatus (referring to Fig. 5, the data path (e.g. data lines) connecting elements 32 to 34 and 34 to 36 (not labeled) comprise the data lines, whereas the read area deciding section communicates data via the data lines. Examiner maintains therefore that the detecting means (e.g. element 36) is actually part of the information processing apparatus and not internal to the non-contact type IC (e.g. external). This interpretation is consistent with Applicant's specification (Fig. 1, depicts the detecting means (e.g. terminal apparatus) as including a non-contact IC, where the terminal apparatus is external to the non-contact card. Kobayashi teaches a larger information processing apparatus, all elements of Fig. 2, except for the non-contact IC card elements which include elements 32, 34, 38 and 40 (and the

communication links) as shown in Fig. 5. As such, Kobayashi's detecting means is part of the information processing apparatus, but external to the non-contact IC card.

Second, Examiner mapped the memory, memory control unit, and antenna to elements 32, 34 and 40 respectively of Kobayashi's Fig. 5; and the communicating means, the detecting means, the determining means, and the access controlling means of the information processing apparatus to the data lines shown in Fig. 5, and the memory control section (element 36). As such the communicating means, the detecting means, the determining means, and the access controlling means are separate and distinct from the memory, memory control unit, and antenna of the non-contact type IC of Kobayashi.

Continuing, (Remarks – p. 6, l. 7 through p. 7, l. 24) Applicant again questions whether or not reading the memory via the read area deciding section is detecting access to the non-contact IC. This argument is not persuasive, as Examiner and Applicant have, on several previous occasions made of record since the incept of prosecution, argued the merits of whether or not reading memory via the read area deciding section is actually detecting internal access. Examiner maintains, Applicant's arguments notwithstanding, that this type of access does in fact properly anticipate Applicant's claims as per the reasons already made of record.

Since Applicant and the Office appear to have unsuccessfully exhausted their efforts to persuade one another on this matter, no additional retort is deemed necessary at this time. Examiner again respectfully directs Applicant's attention to Examiner's arguments on this matter previously established on the record. The

argument with respect to a change in EM field strength was already addressed in a previous paragraph of Examiner's retort above.

Applicant's argument that claims 9, 10, 12, 17 and 18 are allowable for containing similar limitations as claim 1 is rendered moot, as Examiner maintains that Kobayashi anticipates claim 1 for the reasons stated *supra*.

Applicant's argument that all dependant claims are allowable for at least containing limitations that are allegedly allowable of Kobayashi is rendered moot, as Examiner maintains that Kobayashi anticipates all base claims as per the reasons stated *supra*.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRAIG E. WALTER whose telephone number is (571)272-8154. The examiner can normally be reached on 8:30a - 5:00p M-F.


12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Craig E Walter/  
Examiner, Art Unit 2188

CEW

/Hyung S SOUGH/  
Supervisory Patent Examiner, Art Unit 2188

<b>Application Number</b> 	<b>Application/Control No.</b>	<b>Applicant(s)/Patent under Reexamination</b>	
	10/785,063	HIGUCHI, TOMOHISA	
	<b>Examiner</b>	<b>Art Unit</b>	
	CRAIG E. WALTER	2188	